

Message Text

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ACTION EB-07

INFO OCT-01 EA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 RSC-01 FAA-00 L-02 /026 W

----- 116229

R 100815Z JAN 75

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 7202

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E.O. 11652: N/A

TAGS: EAIR, JA

SUBJ: CIVAIR: PAN AM FLIGHTS AT OSAKA

REF: TOKYO 135

SUMMARY: EMBASSY FORESEES NO EARLY RESOLUTION OF IMPASSE ON PAN AM'S REQUEST FOR ADDITIONAL OSAKA FLIGHTS. WE DO NOT BELIEVE JCAB WILL RELENT ON PAN AM CASE WHILE CATHAY PACIFIC CASE REMAINS UNDER DISCUSSION WITH UK. WE ALSO DOUBT THAT JCAB WILL BE MORE FORTHCOMING AFTER CP CASE IS SETTLED. GOJ SEEMS TO HAVE LEGAL BASIS FOR DENIAL OF REQUEST (I.E. NON-DISCRIMINATORY APPLICATION OF FREQUENCY LIMITATIONS AT OSAKA), EVEN THOUGH IT HAS NOT RESPONDED ON LEGAL ISSUE. ACCORDINGLY, EMBASSY BELIEVES WE SHOULD CONCENTRATE ON POSSIBILITIES FOR INFORMALLY WORKING OUT MUTUALLY SATISFACTORY ARRANGEMENT. END SUMMARY.

1. DURING FOLLOW-UP TO DISCUSSION WITH JCAB OFFICIALS (REFTEL), OFFICIAL OF FONOFF FIRST NORTH AMERICA DIVISION ON JANUARY 8 TOLD EMBOFF THAT FONOFF EXPECTED TO BE IN POSITION SOON TO CONVEY FORMAL GOJ VIEWS ON LEGAL QUESTIONS CONCERNING PAN AM'S REQUEST FOR ADDITIONAL OSAKA FLIGHTS (TOKYO 15906). EMBOFF TOOK OCCASION TO EXPRESS CONCERN OVER JCAB'S RIGID ATTITUDE ON OSAKA, AS MOST RECENTLY MANIFESTED IN PREVIOUS DAY'S CONVERSATION WITH JCAB (REFTEL). WHILE RECOGNIZING THAT AIRCRAFT NOISE

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AND CONGESTION ARE SERIOUS PROBLEMS FOR JCAB, HE SAID

EMBASSY FINDS IT HARD TO UNDERSTAND JCAB'S UNWILLINGNESS TO CONSIDER POSSIBLE WAYS TO ACCOMMODATE ADDITIONAL PAN AM SERVICES AT OSAKA. OFFICIAL SAID THIS WAS ALSO MATTER OF CONCERN TO FONOFF AND THAT HIS DIVISION DIRECTOR (MATSUURA) HAD SOUGHT TO PERSUADE JCAB TO BE MORE FORTHCOMING. (IN SUBSEQUENT CONVERSATION BETWEEN E/C COUNS AND MATSUURA, LATTER SAID HIS DISCUSSION WITH JCAB LEFT HIM WITH NO BASIS TO BELIEVE JCAB WAS PREPARED TO ALTER ITS POSITION ON OSAKA.)

2. COMMENT. WE BELIEVE JCAB'S UNYIELDING ATTITUDE ON PAN AM ISSUE CAN BE PARTLY EXPLAINED BY TIMING. AS WE HAVE REPORTED, CONSULTATIONS WILL BE RESUMED NEXT MONTH BETWEEN GOJ AND UK ON CATHAY PACIFIC'S RIGHTS AT OSAKA FOR PERIOD AFTER MARCH 31, 1975. UP TO NOW JCAB HAS STEADFASTLY REFUSED TO INCREASE CP'S OSAKA SERVICES AND WE BELIEVE IT WILL HOLD TO THAT POSITION IN THE NEXT ROUND OF CONSULTATIONS. UNDER THESE CIRCUMSTANCES JCAB CAN ILL AFFORD TO CONCEDE TO PAN AM WHAT IT IS DENYING TO CATHAY PACIFIC. SUCH ACTION ALMOST CERTAINLY WOULD RESULT IN RETALIATION BY THE UK. FOR THIS REASON EMBASSY DOES NOT BELIEVE JCAB WILL BUDGE ON PAN AM ISSUE WHILE CP PROBLEM REMAINS UNDER DISCUSSION.

3. EVEN AFTER CP CASE IS DISPOSED OF, THERE IS LITTLE REASON TO EXPECT MORE FORTHCOMING ATTITUDE BY JCAB. ASSUMING IT HOLDS THE LINE ON CP, IT COULD -- AND UNDOUBTEDLY WOULD -- THEN ARGUE THAT IT CANNOT TURN AROUND AND QTE DISCRIMINATE UNQTE IN FAVOR OF PAN AM. IN ORDER FOR JCAB TO ACCEDE TO PAN AM'S REQUEST, IT WOULD NEED PLAUSIBLE JUSTIFICATION; OTHERWISE IT COULD NOT CONTINUE TO HOLD OFF REQUESTS BY OTHER AIRLINES (POSSIBLY INCLUDING OTHER US CARRIERS) FOR INCREASED ACCESS TO OSAKA.

4. IN SUPPORTING PAN AM'S REQUEST WITH THE GOJ, OUR ARGUMENTS HAVE BEEN ESSENTIALLY LEGAL, I.E. GOJ MUST PERMIT ADDITIONAL OPERATIONS UNDER TERMS OF BILATERAL AGREEMENT. HOWEVER, GOJ CLEARLY IS FACED WITH SEVERE LIMITATION ON OPERATIONS AT OSAKA, COMPLICATED BY COMPETING REQUIREMENTS/DEMANDS OF MANY FOREIGN AIRLINES, LIMITED OFFICIAL USE

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AND, SINCE THERE DOES NOT APPEAR TO BE CASE OF DISCRIMINATION AGAINST EITHER PAN AM OR FOREIGN AIRLINES, GOJ SEEMS TO HAVE JUSTIFICATION UNDER ARTICLE 15 OF CHICAGO CONVENTION FOR NOT ABIDING BY PROVISIONS OF BILATERAL RELATIVE TO FREQUENCY OF OPERATIONS. OUR QTE ULTIMATE WEAPON UNQTE WOULD BE RETALIATION AND/OR DENUNCIATION OF BILATERAL (FORMER COULD EASILY LEAD TO LATTER), BUT NEITHER WOULD APPEAR TO BE IN US INTEREST. THUS, WE BELIEVE EMBASSY

SHOULD CONCENTRATE ITS EFFORTS ON ENCOURAGING GOJ EITHER TO PROCEED WITH ARRANGEMENT ON WIDE-BODY JETS (PARA 3 REFTEL) OR TO MAKE OTHER AT LEAST PARTIAL ACCOMMODATION OF PAN AM'S REQUEST. IF DEPARTMENT AGREES WITH THIS COURSE OF ACTION, IT WOULD SEEM ADVISABLE THAT WASHINGTON AGENCIES DISCUSS SITUATION CANDIDLY WITH PAN AM TO AVOID POSSIBLE LATER RECRIMINATIONS ABOUT LACK OF USG DILIGENCE IN PROTECTING PAN AM'S RIGHTS.

5. DEPARTMENT'S COMMENTS WOULD BE APPRECIATED.
HODGSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR SCHEDULES, AVIATION AGREEMENTS, NEGOTIATIONS, AIR ROUTES
Control Number: n/a
Copy: SINGLE
Draft Date: 10 JAN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975TOKYO00346
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750010-0267
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750160/aaaacapz.tel
Line Count: 126
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 TOKYO 135
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 15 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 JUL 2003 by ShawDG>; APPROVED <16 JUL 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: PAN AM FLIGHTS AT OSAKA
TAGS: EAIR, JA, PANAM
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006